



Who is OSC?

OSC is an independent investigative and prosecutorial agency in the Executive Branch.



OSC's Mission

- **Protect current and former employees, and applicants for federal employment, especially whistleblowers, from prohibited employment practices or from illegal employment practices under USERRA;**

- **Promote and enforce compliance by government employees with legal restrictions on political activity, and**

- **Facilitate disclosures by federal whistleblowers about government wrongdoing**



OSC Carries out its Mission by:

- **Investigating complaints of prohibited personnel practices, especially reprisal for whistleblowing, and pursuing remedies for violations;**

- **Providing advisory opinions concerning the Hatch Act and enforcing the Act's restrictions on political activity through investigation and prosecution;**

- **Operating an independent and secure channel for disclosures of wrongdoing in federal agencies;**

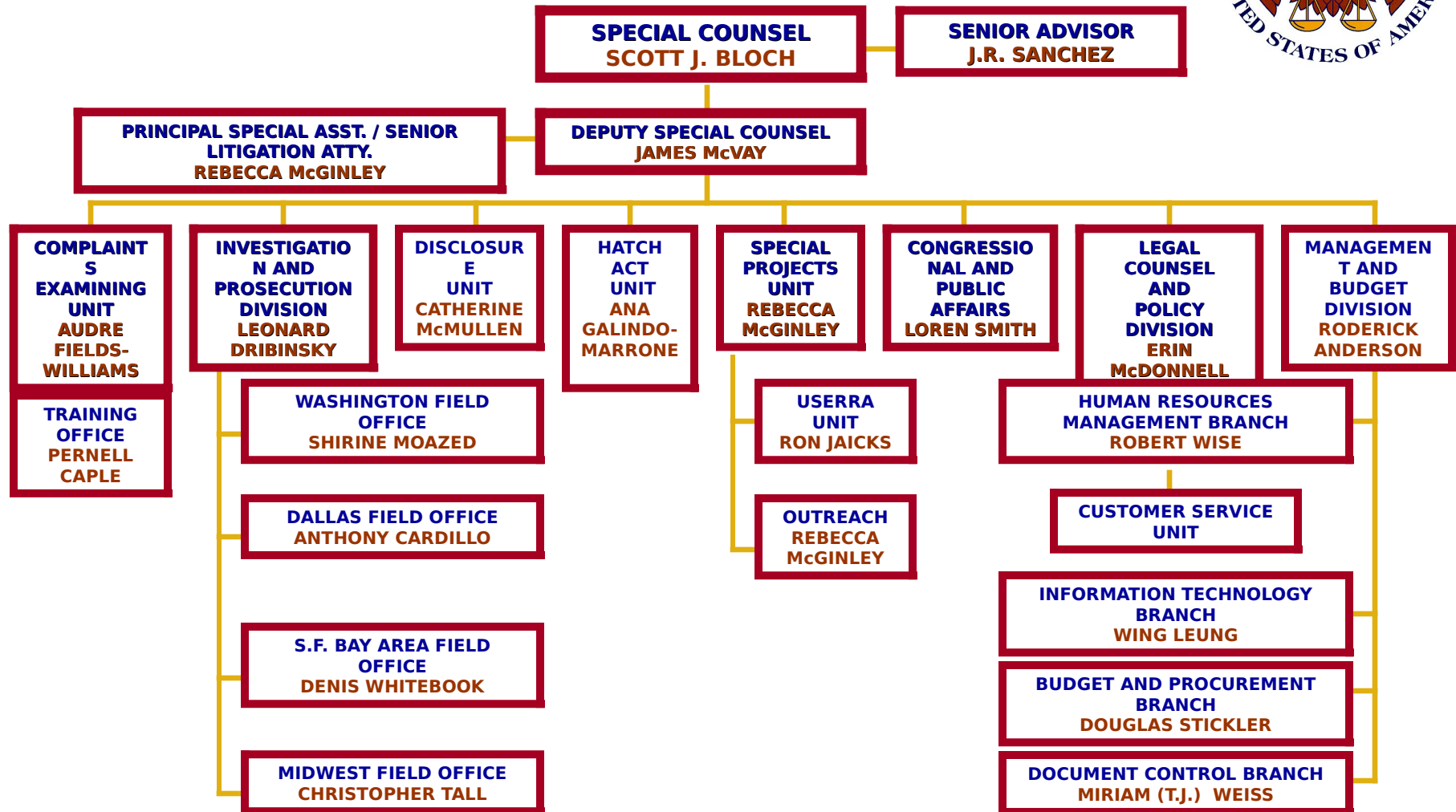


Cont'

- **Protecting reemployment and antidiscrimination rights of veterans under the Uniformed Services Employment and Reemployment Rights Act; and**

- **Promoting greater understanding of the rights and responsibilities of federal employees under the laws enforced by OSC through Outreach**

OSC ORGANIZATION





THE HATCH ACT-

ITS IMPORTANCE TO FEDERAL EMPLOYEES

FEDERAL HATCH ACT



TWO CATEGORIES OF EMPLOYEES:

EMPLOYEES OF INTELLIGENCE- AND ENFORCEMENT-TYPE AGENCIES (Further Restricted)

- Except PAS

ALL OTHERS (Less Restricted)

- GS
- WG
- PAS
- Schedule C
- Noncareer SES

FEDERAL HATCH ACT



NATIONAL GUARD

➤ ***Covered by Hatch Act:***

- **National Guard Technicians**
- **Title V federal civilian employees**

➤ ***Not Covered by Hatch Act:***

- **Active Guard Reserves**
- **Full-time National Guard Duty**
- **Weekend Reserves**
- **State Active Duty**

FEDERAL HATCH ACT DOs
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART B



GENERALLY LESS RESTRICTED EMPLOYEES MAY -

1. engage in partisan political campaigning

(e.g., distribute campaign literature, organize campaign events, speak on behalf of a candidate, etc.)

2. engage in partisan political management

(e.g., hold party office, organize party events, serve on a party committee, etc.)

FEDERAL HATCH ACT DON'Ts

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C



ALL COVERED EMPLOYEES MAY NOT —

1. USE OFFICIAL AUTHORITY OR INFLUENCE TO INTERFERE WITH AN ELECTION

- **Use of official title (generic title or “The Honorable”)**
- **Coerce subordinates**
- **Solicit the uncompensated volunteer services of subordinates**
- **Provide names/addresses of employees to candidate/campaign**

FEDERAL HATCH ACT DON'Ts
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C



**2. SOLICIT OR DISCOURAGE POLITICAL ACTIVITY
OF
ANYONE WITH BUSINESS BEFORE THEIR
AGENCY**

FEDERAL HATCH ACT DON'Ts

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C



3. SOLICIT OR RECEIVE POLITICAL CONTRIBUTIONS

- **Solicitation letters**
- **Fundraisers**
- **Phone banks**

(A covered employee may host a meet and greet, serve as campaign or party treasurer and speak at a fundraiser)

FEDERAL HATCH ACT DON'Ts

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C



4. BE CANDIDATES FOR PUBLIC OFFICE IN PARTISAN ELECTIONS

- **Nonpartisan elections**
- **Designated localities** (*see slides 26 & 27*)
- **Write-in candidacy**
- **Party office (e.g., precinct committee person)**



WHEN DOES IT BEGIN?

- **WHEN AN INDIVIDUAL BEGINS TO COLLECT SIGNATURES FOR NOMINATING PETITIONS**
- **WHEN AN INDIVIDUAL BEGINS TO FUNDRAISE**
- **WHEN AN INDIVIDUAL MAKES AN ANNOUNCEMENT TO THE PRESS**
- **WHEN AN INDIVIDUAL FILES NOMINATING PETITIONS**
- **WHEN AN INDIVIDUAL PUTS A CAMPAIGN COMMITTEE TOGETHER**

BEWARE OF NONPARTISAN ELECTIONS/CANDIDACIES

5 U.S.C. § 7323



Nonpartisan can transform to partisan when:

- **Employee/candidate seeks and receives endorsement of political party.**
- **Employee/candidate advertises endorsement of political party.**
- **Employee/candidate uses political party resources.**
- **Employee/candidate announces he is a political party candidate.**

Key: There is evidence showing that partisan politics actually entered the campaign of a candidate.

FEDERAL HATCH ACT DON'Ts

5 U.S.C. § 7324; 5 C.F.R. PART 734, SUBPART C



5. ENGAGE IN POLITICAL ACTIVITY WHILE —

- **ON DUTY**
- **IN A GOVERNMENT OFFICE**
- **WEARING AN OFFICIAL UNIFORM**
- **USING A GOVERNMENT VEHICLE**

(exception: some PAS/EOP employees)

FEDERAL HATCH ACT

5 U.S.C. § 7324; 5 C.F.R. PART 734.101



POLITICAL ACTIVITY MEANS:

**AN ACTIVITY DIRECTED TOWARD THE SUCCESS OR
FAILURE OF A —**

- **POLITICAL PARTY**
- **CANDIDATE FOR PARTISAN POLITICAL OFFICE, OR**
- **PARTISAN POLITICAL GROUP**

FEDERAL HATCH ACT

5 U.S.C. § 7324; 5 C.F.R. PART 734.101



Prohibited Political Activity (Examples):

- **Buttons, posters, coffee mugs, etc. in the workplace**
with the following messages:

“Vote for”

“I support”

“Register for”

- **Bumper stickers on government cars**
- **E-mail**

FEDERAL HATCH ACT

5 U.S.C. § 7324; 5 C.F.R. PART 734.101



Not Prohibited Political Activity (Examples):

- **NRA**
- **“Crime control not gun control”**
- **“Right to life”**
- **“Pro-choice”**
- **“I support the war”**
- **“Peace not war”**

FEDERAL HATCH ACT: EOP / PAS COVERAGE

5 U.S.C. § 7324(b); 5 C.F.R. PART 734, SUBPART E



EMPLOYEES —

Whose duties and responsibilities continue outside normal duty hours and while away from the normal duty post and are

1- paid from an appropriation for the (EOP), or

2- appointed by the President and Senate-confirmed (PAS)

who —

A) occupy positions located in the U.S., and

B) determine policies to be pursued in

- relations with foreign powers, or**
- nationwide administration of federal laws**

**FEDERAL HATCH ACT:
EOP / PAS COVERAGE (CONT'D)**
5 U.S.C. § 7324(b); 5 C.F.R. PART 734, SUBPART E



**SUCH PAS and EOP EMPLOYEES MAY ENGAGE IN
POLITICAL ACTIVITY WHILE —**

- ***ON DUTY***
- ***IN A GOVERNMENT ROOM OR BUILDING***
- ***WEARING A UNIFORM OR OFFICIAL INSIGNIA***
- ***USING A GOVERNMENT VEHICLE***

**IF COSTS ASSOCIATED WITH POLITICAL ACTIVITY ARE NOT
PAID FOR BY MONEY DERIVED FROM THE U.S. TREASURY**

FEDERAL HATCH ACT: RESTRICTED AGENCIES

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



- **CRIMINAL DIVISION (DOJ)**
- **CENTRAL INTELLIGENCE AGENCY**
- **DEFENSE INTELLIGENCE AGENCY**
- **FEDERAL BUREAU OF INVESTIGATION**
- **FEDERAL ELECTIONS COMMISSION**
- **MERIT SYSTEMS PROTECTION BOARD**
- **NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY**

FEDERAL HATCH ACT: RESTRICTED AGENCIES

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



- **NATIONAL SECURITY AGENCY**
- **NATIONAL SECURITY COUNCIL**
- **OFFICE OF CRIMINAL INVESTIGATION (IRS)**
- **OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**
- **OFFICE OF INVESTIGATIVE PROGRAMS (CUSTOMS)**
- **OFFICE OF LAW ENFORCEMENT (BATF)**
- **OFFICE OF SPECIAL COUNSEL**
- **SECRET SERVICE**

FEDERAL HATCH ACT: RESTRICTED POSITIONS

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



- **CAREER SES**
- **ADMINISTRATIVE LAW JUDGES**
- **MEMBERS OF CONTRACTS APPEALS BOARDS**
- **ADMINISTRATIVE APPEALS JUDGES**

**FEDERAL HATCH ACT DON'Ts:
FURTHER RESTRICTED EMPLOYEES
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D**



**FURTHER RESTRICTED EMPLOYEES MAY NOT ENGAGE
IN PARTISAN POLITICAL CAMPAIGNING AND POLITICAL
MANAGEMENT-**

- Make campaign speeches
 - Distribute campaign literature
 - Organize a political rally, meeting or fundraiser
 - Hold political party office or be a party delegate
 - Participate in partisan voter registration drives
 - Circulate nominating petitions
-
- **KEY: NO ACTIVITY IN CONCERT WITH A POLITICAL PARTY OR CANDIDATE**

**FEDERAL HATCH ACT DOs:
FURTHER RESTRICTED EMPLOYEES**
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



FURTHER RESTRICTED EMPLOYEES MAY —

- **Join political clubs or parties**
- **Express opinions about candidates and issues**
- **Sign nominating petitions**
- **Attend political rallies and conventions**
- **Participate in nonpartisan activities**

DESIGNATED LOCALITIES

5 U.S.C. § 7325; 5 C.F.R. Part 733



- **Less restricted employees who reside in designated localities may -**
 - **Run as independent candidates** in partisan elections for local office in that designated locality
 - **Solicit, accept or receive** a political contribution on behalf of an independent candidate in a partisan election for local office (except may **not solicit a federal employee**)
 - **Accept or receive** a political contribution for a partisan candidate for local office (except from a subordinate)
 - **Solicit, accept or receive** uncompensated volunteer services in the preceding three instances (except from a subordinate)

DESIGNATED LOCALITIES

5 U.S.C. § 7325; 5 C.F.R. Part 733



- Further restricted employees who reside in designated localities may -
 - **Run** as independent candidates in partisan elections for local office in that designated locality
 - **Solicit, accept or receive** a political contribution on behalf of an independent candidate in a partisan election for local office (except may not **solicit** a federal employee or **accept or receive** a political contribution from a subordinate)
 - **Solicit, accept or receive** uncompensated volunteer services in the preceding two instances (except from a subordinate)

DISCIPLINARY ACTION

5 U.S.C. § 1215



MAY BE SOUGHT BY OSC FROM —

- **THE MERIT SYSTEMS PROTECTION BOARD**
- **THE PRESIDENT**
(FOR MOST PRESIDENTIAL APPOINTEES)

DISCIPLINARY ACTION (Penalties)

5 U.S.C. § 7326



MERIT SYSTEMS PROTECTION BOARD MAY ORDER EMPLOYEE'S —

- **REMOVAL**

OR

- **SUSPENSION (30-DAY
MINIMUM)**

ADVISORY OPINIONS

5 U.S.C. § 1212 (f)



- Employees may obtain answers to specific questions regarding political activity by calling OSC at:
800-85-HATCH or 202-254-3650.

- Requests for written advisories may be made to:

Mail: U.S. OFFICE OF SPECIAL COUNSEL
1730 M STREET, NW (SUITE 218)
WASHINGTON, DC 20036-4505
Attn: Hatch Act Unit

Fax: (202) 653-5151

OSC WEB SITE

(<http://www.osc.gov>)



U.S. Office of Special Counsel



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Thursday, 25 May 2006 Thursday, 25 May 2006

Prohibited Personnel Practices



Whistleblower Disclosures



Political Activity (Hatch Act)



Uniformed Services Employment and Reemployment Rights Act (USERRA)

HEADLINES

- **LATEST OSC PRESS RELEASE:** [OSC: Prisons Exposed Staff and Inmates to Hazardous Materials: Federal Bureau of Prisons Has Failed to Address Concerns in Report](#)
- **FORMS UPDATED:** [Revised Complaint Form \(OSC-11\) and Disclosure Form \(OSC-12\) Now Available](#)
- **NEW SECTION:** [E-Library - View OSC Publications, Annual Reports, Speeches, Testimony, Legal Briefs, Policies, Procedures and other significant documents](#)

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Last Updated: 4/4/06

OSC PHONE / E-MAIL CONTACTS



COMPLAINTS EXAMINING UNIT:

**(202) 254-3670
(800) 872-9855**

DISCLOSURE HOTLINE:

**(202) 254-3640
(800) 572-2249**

HATCH ACT UNIT:

**(800) 85-HATCH
(202) 254-3650
hatchact@osc.gov**

USERRA UNIT:

**(202) 254-3620
userra@osc.gov**

OSC SPEAKERS/ OUTREACH REQUESTS:

Rebecca S. McGinley

(202) 254-3600